

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHERYL L. STEPHENS,

Plaintiff,

v.

MICHAEL J. ASTRUE,

Defendant.

Case No. 2:07-CV-01535-KJD-LRL

ORDER

On June 25, 2008, Magistrate Judge Lawrence R. Leavitt signed a Report and Recommendation (#24) that Plaintiff's Motion for Reversal and/or Remand (#19) be denied, and that Defendant's Cross-Motion to Affirm (#21) be granted.

Plaintiff filed Objections (#25) to the Magistrate Judge's Report and Recommendation on July 10, 2008. Specifically, Plaintiff objects to the Magistrate Judge's Report and Recommendation on the grounds that the Magistrate Judge committed error of law by "failing to properly evaluate the evidence of record in assessing her [Plaintiff's] residual functional capacity." (See Objections at 2.) Additionally, Plaintiff restates her position that she has overcome the presumption of continuing non-disability, and therefore, that the Court should reverse the ALJ decision.

The Court has reviewed the Motions, their respective Responses and Replies, as well as the Report and Recommendation of the Magistrate Judge, and hereby upholds the Magistrate Judge's

1 Report and Recommendation. Specifically, the Magistrate Judge found that the ALJ had reviewed
2 the Plaintiff's complete record, and that the ALJ's reliance on the opinions of Drs. Maningo and
3 Nickles was supported by substantial evidence in the record. The Magistrate Judge noted that the
4 ALJ found he "could not give Dr. Kia's comment appreciable weight", because it was not supported
5 by the Doctors' "minimal findings." (Report and Recommendation at 10.) Additionally, the
6 Magistrate Judge properly upheld the ALJ's decision not to recontact Dr. Kia because the record was
7 sufficient for the ALJ to make a disability determination. Additionally, the Magistrate Judge found
8 that the ALJ properly evaluated the record in concluding that the evidence did not support Plaintiff's
9 allegations of a severe mental impairment. (Id. at 11.)

10 Therefore, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Reversal and/or Remand
11 (#19) is **DENIED**.

12 **IT IS FURTHER ORDERED** that Defendant's Cross-Motion to Affirm (#21) is
13 **GRANTED**.

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15 DATED this 26th day of November 2008.

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Kent J. Dawson
United States District Judge